

SENATE BILL NO. 270

INTRODUCED BY D. GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IF DAMAGES ARE AWARDED TO A PARTY FOR FUTURE LOST EARNINGS FOR A CLAIM THAT SURVIVES THE DEATH OF THE PARTY, THE PARTY'S FUTURE EXPENSES FOR PERSONAL CONSUMPTION MUST BE DEDUCTED FROM THE AWARD; AMENDING SECTION 27-1-501, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-501, MCA, is amended to read:

"27-1-501. Survival of cause of action or defense -- death or disability or transfer of interest. (1)

An action, cause of action, or defense does not abate because of the death or disability of a party or the transfer of any interest therein, ~~but whenever the cause of action or defense arose in favor of such party prior to his death or disability or transfer of interest therein, it in the action, cause of action, or defense.~~ The action, cause of action, or defense survives and may be maintained by his the party's representatives or successors in interest. If the action has not been begun or defense interposed, the action may be begun or defense interposed in the name of his the party's representatives or successors in interest. If the action has been begun or defense interposed, the action or proceeding may be continued as provided in Rule 25, M.R.Civ.P.

(2) ~~Actions brought under this section and 27-1-513~~ and this section must be combined in one legal action, and any element of damages may be recovered only once.

(3) If damages are awarded to a party for future lost earnings for an action or cause of action that survives the death of the party, the party's future expenses for personal consumption must be deducted from the award."

NEW SECTION. Section 2. Applicability. [This act] applies to causes of action that arise after [the effective date of this act].

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